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UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE DIVISION

E-FILED - 2/8/06

| | | |
|----------------------------------|---|-----------------------|
| UNITED STATES OF AMERICA, |) | No. CR 05-00734-RMW |
| Plaintiff, |) | |
| v. |) | STIPULATION REGARDING |
| |) | EXCLUDABLE TIME AND |
| MOISES NUNEZ, |) | ORDER |
| aka cartel, aka marvel, aka OTR, |) | |
| Defendant. |) | |

It is hereby stipulated and agreed between defendant Moises Nunez, and his counsel Jerry Fong, and the United States as follows:

This matter was set for a status conference on February 13, 2006 at 9:00 a.m. In this copyright infringement case, the defense needs more time to prepare, review discovery previously provided, including a substantial amount of digital evidence, and research legal and sentencing issues. The parties have been discussing plea and sentencing issues. In particular, the defense requests more time to assess valuation issues and criminal history issues before arriving at a final plea decision.

The parties stipulate and move the Court to exclude time under the Speedy Trial Act from the

1 February 13, 2006, until March 13, 2006, because the parties believe that the ends of justice
2 served by the granting of such a continuance outweigh the best interests of the public and the
3 defendant in a speedy trial, particularly since reasonable time is needed for the defense to prepare
4 for pretrial and trial matters, pursuant to 18 U.S.C. §§ 3161(h)(8)(A), 3161(h)(8)(B)(ii). The
5 parties further stipulate that time may be excluded for reasonable time for defense
6 preparation, since the failure to exclude time would deny counsel for the defendant reasonable
7 time necessary for effective preparation, taking into account the exercise of due diligence,
8 pursuant to 18 U.S.C. §§ 3161(h)(8)(A), 3161(h)(8)(B)(iv).

9 So stipulated.

10 Dated: February __, 2006

KEVIN V. RYAN
United States Attorney

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13 MARK L. KROTOSKI
Assistant United States Attorney

14 So stipulated.

15 Dated: February __, 2006

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17 JERRY FONG
Attorney for Defendant Nunez

ORDER

Based upon the foregoing Stipulation and good cause appearing therefor,

IT IS HEREBY ORDERED that the status conference set for February 13, 2006 at 9:00 a.m. for defendant Martinez shall be continued to March 13, 2005 at 9:00 a.m.

IT IS FURTHER ORDERED that the time between February 13, 2006, until March 13, 2006 shall be excluded from the computation period within which the trial must commence, for the reasons and based upon the statutory provisions set forth by the parties in this Stipulation, including that time is needed for effective defense preparation.. The Court finds that the ends of justice outweigh the interests of the public and the parties in a speedier trial under 18 U.S.C. §§ 3161(h)(8)(A), 3161(h)(8)(B)(ii) (complexity), 3161(h)(8)(B)(iv) (reasonable time necessary for effective preparation taking into account the exercise of due diligence).

DATED: February 8, 2006

/s/ Ronald M. Whyte
RONALD M. WHYTE
United States District Judge